

REMARKS

The Examiner has rejected claims 9-10 as being obvious over Lee in view of Lefebvre. The Examiner states that in figures 1-4, Lee discloses a pop-up dispenser (10) for dispensing sheets of aluminum foil, as described in column 1, lines 44-48. Each sheet has a lead portion and a trailing portion. The lead portion of the first sheet (30) of aluminum foil extends through a dispensing orifice (elongated opening 14) to an elevation above that of the dispensing unit (10), as shown in Figure 3. The trailing portion of the first foil (30) overlaps the lead portion of the next hair foil to be dispensed, as discussed in col. 1, lines 10-19 and col. 2, lines 48-51. Withdrawing the first sheet of foil (30) pulls the next sheet, as discussed in col. 1, lines 19-23. The withdrawing of the first sheet of foil (30) can be achieved with one hand. The first foil sheet (30) can be applied to a person's hair immediately after being dispensed without any further preparation if the foil sheet is already the proper size for applying to hair. The Examiner states that it would have been obvious to make the foil sheets dispensed by the dispenser of Lee the proper size for applying to hair, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Claim 9 states a method of putting hair foil in a person's hair consisting essentially of: removing a first sheet of hair foil from a pop-up dispenser. The sheet of hair foil has a lead portion and a trailing portion. The lead portion of the sheet of hair foil extends through a dispensing orifice to an elevation above

that of the dispensing unit. The trailing portion of the first hair foil sheet overlaps with a lead portion of a next hair foil sheet to be dispensed. A user pulls the next hair foil sheet through the orifice of the dispenser by withdrawing the first sheet of hair foil. The first hair foil sheet is then applied to a person's hair.

Lee relates to a dispensing apparatus for dispensing tissues and aluminum foils through an opening. Lee states in the prior art that one of the methods of dispensing tissues is through a restricted opening made of a thin plastic sheet or film having a slit across, such that the tissue to be dispensed is slightly pinched between the slit formed by the plastic sheet until extracted by the user. Col. 1, lines 10-19. Lee teaches against this method. The method described by Lee uses a plurality of elastic strings having first and second ends. The first ends are attached to one end of the opening and the second ends are attached to an opposite end of the opening. The plurality of elastic strings is configured to form a slit for holding the tissues to prevent falling into the carton. Figure 3 illustrates a tissue 30 protruding through the opening formed by the first and second elastic strings 16a and 16b. The tissue 30 is firmly placed in between the strings 16a and 16b and does not drop back into the carton 11. When the tissue 30 is pulled from the carton 11, the pulling force of the tissue 30 will cause the first and the second elastic strings 16a and 16b to twist against each other. Once the tissue 30 completely exits the carton, due to the elastic characteristics of the strings, the elastic strings 16a and 16b will untwist themselves to their original shape and will hold the next tissue in place.

Lee does not teach a method for putting hair foil in a person's hair.

Further Lee's method of dispensing tissues and foil does not consist essentially of: removing a first sheet of hair foil from a pop-up dispenser. The sheet of hair foil has a lead portion and a trailing portion. The lead portion of the sheet of hair foil extends through a dispensing orifice to an elevation above that of the dispensing unit. The trailing portion of the first hair foil sheet overlaps with a lead portion of a next hair foil sheet to be dispensed. A user pulls the next hair foil sheet through the orifice of the dispenser by withdrawing the first sheet of hair foil. The first hair foil sheet is then applied to a person's hair. Lee requires and makes essential that elastic strings twist and untwist to assist the user in withdrawing the tissue or foil and then withdrawing a second sheet of tissue or foil.

The Examiner states that Lee does not disclose the application of foil to a person's hair. Lefebvre discloses the application of foil to a person's hair in column 1, lines 11-40. It would have been obvious to apply the foil of Lee to a person's hair, as taught by Lefebvre, in order to highlight only selected strands of hair.

Lefebvre relates to a method of hair highlighting using polystyrene sheet. The sheet is semi-flexible, thermally-insulating, hair-clinging, non porous, non slipping properties, as a dye-applying pad for hair highlighting. The polystyrene sheet defines one and another opposite flat portions merging about a fold line. A lock of hair is laid over one flat half portion of the sheet, and a fluid (gel or cream) dye solution including oxidizing means is applied to the lock of hair. The

other flat half portion of the sheet then folded over and flatly compressed against the first portion of the sheet to take the locks in sandwich for a sufficient development time to enable permanent hair coloring.

Lefebvre teaches to use a polystyrene sheet to replace aluminum foil. Lefebvre discusses the disadvantages of using aluminum foil. Therefore, Lefebvre does not teach the use of foil, and in fact teaches against the use of foil. Therefore, there is no teaching to combine Lee with Lefebvre.

The Examiner states that applicant has the burden of showing that the introduction of additional steps or components would materially change the characteristics of the applicant's invention if the applicant contends that additional steps or materials in the prior art are excluded by the recitation of "consisting essentially of."

The Examiner cites Col. 1, lines 37-41 in response to the arguments regarding that Lee requires and makes essential that elastic strings twist and untwist for withdrawing the tissue or foil. The Examiner states that this passage recites that "aluminum foil... might not be used with the opening formed by the plastic sheet because the weight of such a material cannot be supported by the pinching force created by the plastic sheet." Basically, it is possible to use aluminum foil without the help of the elastic strings, but it is preferable to have the elastic strings. The elastic strings are an improvement, not an essential element.

The section cited to by the Examiner relates to the prior art and not what is taught by Lee. The section cited by the Examiner assists the applicant's

argument in stating that with aluminum foil, an opening formed by the plastic sheet alone might not be used because the weight of the material cannot be supported by the pinching force created by the plastic sheet. Lee then goes on to teach why it is necessary and essential for the elastic strings to be used in the invention.

For the reasons stated above claims 9 and 10 are not obvious over Lee in view of Lefebvre.

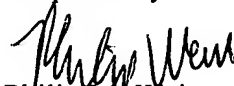
Applicant believes that the application is now in condition for allowance.

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